

Department of Veterans Affairs

§ 52.2

(t) *Relationship to other Federal regulations.* In addition to compliance with the regulations set forth in this subpart, facilities are obliged to meet the applicable provisions of other Federal laws and regulations, including but not limited to those pertaining to non-discrimination on the basis of race, color, national origin, handicap, or age (38 CFR part 18); protection of human subjects of research (45 CFR part 46), section 504 of the Rehabilitation Act of 1993, Public Law 93-112; Drug-Free Workplace Act of 1988, 38 CFR part 44, section 44.100 through 44.420; section 319 of Public Law 101-121; Title VI of the Civil Rights Act of 1964, 38 CFR 18.1-18.3. Although these regulations are not in themselves considered requirements under this part, their violation may result in the termination or suspension of, or the refusal to grant or continue payment with Federal funds.

(u) *Intermingling.* A building housing a facility recognized as a State home for providing nursing home care may only provide nursing home care in the areas of the building recognized as a State home for providing nursing home care.

(v) *VA Management of State Veterans Homes.* Except as specifically provided by statute or regulations, VA employees have no authority regarding the management or control of State homes providing nursing home care.

(Authority: 38 U.S.C. 101, 501, 1710, 1741-1743, 8135)

PART 52—PER DIEM FOR ADULT DAY HEALTH CARE OF VETERANS IN STATE HOMES

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AUTHORITY: 38 U.S.C. 101, 501, 1741-1743, unless otherwise noted.

SOURCE: 67 FR 662, Jan. 7, 2002, unless otherwise noted.

Subpart A—General

§ 52.1 Purpose.

This part sets forth the mechanism for paying per diem to State homes providing adult day health care to eligible veterans and includes quality assurance requirements that are intended to ensure that veterans receive high quality care in State homes.

§ 52.2 Definitions.

For purposes of this part—

Activities of daily living (ADLs) means the functions or tasks for self-care usually performed in the normal course of a day, i.e., mobility, bathing, dressing, grooming, toileting, transferring, and eating.

Clinical nurse specialist means a licensed professional nurse with a master's degree in nursing and a major in a clinical nursing specialty from an academic program accredited by the National League for Nursing.

Facility means a building or any part of a building for which a State has submitted an application for recognition as a State home for the provision of

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adult day health care or a building, or any part of a building, which VA has recognized as a State home for the provision of adult day health care.

Instrumental activities of daily living (IADLs) means functions or tasks of independent living, i.e., shopping, housework, meal preparation and cleanup, laundry, taking medication, money management, transportation, correspondence, and telephone use.

Nurse practitioner means a licensed professional nurse who is currently licensed to practice in the State; who meets the State's requirements governing the qualifications of nurse practitioners; and who is currently certified as an adult, family, or gerontological nurse practitioner by the American Nurses Association.

Physician means a doctor of medicine or osteopathy legally authorized to practice medicine or surgery in the State.

Physician assistant means a person who meets the applicable State requirements for physician assistant, is currently certified by the National Commission on Certification of Physician Assistants (NCCPA) as a physician assistant, and has an individualized written scope of practice that determines the authorization to write medical orders, prescribe medications and to accomplish other clinical tasks under the appropriate supervision by the primary care physician.

Primary physician or *Primary care physician* means a designated generalist physician responsible for providing, directing and coordinating health care that is indicated for the residents.

State means each of the several States, territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

State home means a home approved by VA which a State established primarily for veterans disabled by age, disease, or otherwise, who by reason of such disability are incapable of earning a living. A State home may provide domiciliary care, nursing home care, adult day health care, and hospital care. Hospital care may be provided only when the State home also provides domiciliary and/or nursing home care.

VA means the U.S. Department of Veterans Affairs.

(Authority: 38 U.S.C. 101, 501, 1741–1743)

Subpart B—Obtaining Per Diem for Adult Day Health Care in State Homes

§ 52.10 Per diem based on recognition and certification.

VA will pay per diem to a State for providing adult day health care to eligible veterans in a facility if the Under Secretary for Health recognizes the facility as a State home based on a current certification that the facility management meet the standards of subpart D of this part.

(Authority: 38 U.S.C. 101, 501, 1741–1743)

§ 52.20 Application for recognition based on certification.

To apply for recognition and certification of a State home for adult day health care, a State must:

(a) Send a request for recognition and certification to the Under Secretary for Health (10), VA Central Office, 810 Vermont Avenue, NW, Washington, DC 20420. The request must be in the form of a letter and must be signed by the State official authorized to establish the State home;

(b) Allow VA to survey the facility as set forth in § 52.30(c); and

(c) Upon request from the director of the VA medical center of jurisdiction, submit to the director all documentation required under subpart D of this part.

(Authority: 38 U.S.C. 101, 501, 1741–1743)

(The Office of Management and Budget has approved the information collection requirements in this paragraph under control number 2900–0160.)

§ 52.30 Recognition and certification.

(a)(1) The Under Secretary for Health will make the determination regarding recognition and the initial determination regarding certification, after receipt of a tentative determination from the director of the VA medical center of jurisdiction, regarding whether the facility and program management meet or do not meet the standards of